

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

JOCELYN TORO,

Plaintiff,

v.

Case No: 6:23-cv-1059-WWB-LHP

UNITE HERE 362 and TCU LODGE
1908,

Defendants

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

MOTION: MOTION FOR DEFAULT JUDGMENT (Doc. No. 6)

FILED: July 17, 2023

THEREON it is ORDERED that the motion is DENIED.

Plaintiff, proceeding *pro se*, moves for default judgment against Defendants. Doc. No. 6. On review, the motion will be denied for several reasons. First, the motion fails to comply with the Local Rules, including Local Rules 1.08¹ and 3.01(a).

¹ See also *In re: Local Rule Amendments*, No. 6:21-mc-3-Orl-WWB, Doc. No. 1 (M.D.

Second, the request for default judgment is premature, as Plaintiff has not obtained a Clerk's default against Defendants pursuant to Federal Rule of Civil Procedure 55(a). *See, e.g., Awgi, LLC v. Team Smart Move, LLC*, No. 6:12-cv-948-Orl-22DAB, 2012 WL 12904224, at *1 (M.D. Fla. Sept. 28, 2012), *report and recommendation adopted*, 2012 WL 12904225 (M.D. Fla. Oct. 4, 2012) (citation and quotation marks omitted) ("[T]he clerk's entry of default must precede an application for default judgment."). Third, even construing the motion as one requesting Clerk's default, the motion is still premature on the date of filing, given that Plaintiff contends that service occurred on June 26, 2023. Doc. Nos. 5–6. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). Moreover, before a Clerk's default can be entered against a defendant, the Court must determine that the defendant was properly served, *see, e.g., United States v. Donald*, No. 3:09-cv-147-J-32HTS, 2009 WL 1810357, at *1 (M.D. Fla. June 24, 2009), which the above-styled motion fails to address and/or establish. Notably, since the filing of the motion, one of the Defendants – TCU Lodge 1908 – has appeared in the case. *See* Doc. No. 7.

Fla. Jan. 13, 2021), *available at* <https://www.flmd.uscourts.gov/standing-order-judge-berger-revised-local-rules>.

For these reasons, Plaintiff's Motion for Default Judgment (Doc. No. 6) is
DENIED.

DONE and **ORDERED** in Orlando, Florida on July 18, 2023.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties